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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,)	No. CR-11-0905 SBA
)	
Plaintiff,)	STIPULATION AND PROPOSED
)	ORDER TO CONTINUE STATUS
v.)	HEARING TO NOVEMBER 14, 2016
)	
SYLVESTER MOORE,)	Date: October 18, 2016
)	Time: 9:30 a.m.
)	Court: Hon. Kandis A. Westmore
Defendant.)	

The above-captioned matter is set on October 18, 2016 before this Court for a status hearing. The parties request that this Court vacate that date and set this matter for status or change-of-plea hearing on November 14, 2016 at 9:30 a.m and that the Court exclude time under the Speedy Trial Act between the date of this stipulation and November 14, 2016. The parties stipulate that the time is excludable from the time limitations of the Speedy Trial Act because the interests of justice are served by granting a continuance, pursuant to 18 U.S.C. § 3161(h)(7)(A) and (B)(iv).

This continuance will allow the reasonable time necessary for effective preparation of counsel, taking into account the exercise of due diligence. Both counsel continue to pursue a global resolution of the alleged robberies committed during the conspiracy. Counsel for the government has drafted a plea

agreement, and is awaiting approval from her management to make a formal offer. Both counsel continue to research issues that are likely to arise in sentencing, especially whether Mr. Moore qualifies as a career offender. In particular, the law with respect to what constitutes a crime of violence for career offender purposes continues to evolve, and the parties need time to research the latest developments, including *United States v. Walker*, No. 12-cr-0420 (October 5, 2016) (NDCA district court decision holding that robbery under California Penal Code Section 211 does not qualify as a crime of violence under § 4B1.2. Another recent decision the parties need to analyze and apply is *United States v. Snead*, No. 12-cr-649, at * 14 (August 2, 2016) (NDCA district court holding that robbery under California Penal Code Section 211 is a crime of violence under the elements clause of USSG § 4B1.2(a)).

Additionally, counsel for Mr. Moore has begun a complex murder trial in Santa Clara County that is expected to last at least eight weeks. The trial in that case will be held Tuesday through Friday. For continuity of counsel, given the trial schedule, and for effective preparation, the parties respectfully request that the time between the date of this stipulation and November 14, 2016, be excluded under U.S.C. § 3161(h)(7)(A) and (B)(iv).

DATED: October 17, 2016

Respectfully submitted,

CHRISTINA McCALL
United States Attorney

/s/ Christina McCall
CHRISTINA McCALL
Assistant U. S. Attorney

/s/ Jerry Fong
JERRY FONG
Attorney for Sylvester Moore

ORDER

Based on the reasons provided in the stipulation of the parties above, the Court hereby FINDS that for adequate preparation of the case by all parties, for continuity of counsel, and in the interest of justice, pursuant to 18 U.S.C. sections 3161(h)(7)(A) and (B)(iv), an exclusion of time is warranted under the Speedy Trial Act.

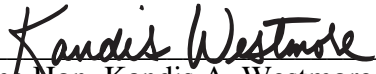
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1 Based on these findings, IT IS HEREBY ORDERED THAT the hearing is continued until November
2 14, 2016, at 9:30 a.m., and time is excluded until November 14, 2016.

3
4 IT SO ORDERED.

5 DATED: 10/17/16


6 The Hon. Kandis A. Westmore
United States Magistrate Court Judge